

IN RE: PETITION FOR ZONING VARIANCE
N/S Morn Mist Court, 150' E
of the c/l of Ferguson Avenue
(8 Morn Mist Court)
11th Election District
5th Councilmanic District
Ryan Homes, Inc.
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-80-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a window to tract boundary setback of 30 feet in lieu of the minimum required 35 feet, in accordance with Petitioner's Exhibit 1.

The Petitioners, by Richard Vornadore, Vice President & Division Manager, appeared, testified and was represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petition was Tom Church, Registered Professional Engineer and President of Development Engineering Consultants, Inc. There were no Protests.

Testimony indicated that the subject property, known as 8 Morn Mist Court, consists of 0.3408 acres zoned D.R. 3.5. Said property, also known as Lot 4 of Ferguson Meadows, is improved with a single family dwelling which was constructed with a window in the living room and dining room area. The window is 30 feet from the property line in lieu of the required 35 feet. Mr. Vornadore testified that Ryan Homes, Inc. inadvertently constructed the dwelling unaware of the applicable zoning regulations as to the window to tract boundary setback requirements and was advised upon an inspection of the property of the necessity for the requested variance. Testimony presented indicated that the window side of the property abuts a 150-foot Baltimore Gas and Electric Company (B & E) right-of-way of way which also abuts a 60-foot transmission line. Petitioners argued that the

granting of the variance will not result in any detriment to the health, safety or general welfare of the community as the spirit and intent of the zoning regulations will be more than met by having the additional buffer area of the B & E right-of-way. Said variance will not result in any deprivation of privacy of any adjoining residential property owners. Petitioners further argued that denial of the requested variance would result in practical difficulty as the dwelling is under contract to a potential buyer who is desirous of having the additional window in the living room and dining room areas.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Deputy Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of September, 1989 that the Petition for Zoning Variance to permit a window to tract boundary setback of 30 feet in lieu of the minimum required 35 feet for Lot 4 of Ferguson Meadows, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- 2 -

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjb

ORDER RECEIVED FOR FILING
Date 9/14/89
By [Signature]

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-80-A #539

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1801.2.6.2.a (V.B.5.a., C.M.D.P.) TO PERMIT A 30' WINDOW TO TRACT BOUNDARY SETBACK IN LIEU OF THE MINIMUM 35'.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

THE DWELLING HAS BEEN SOLD WITH A DINING ROOM WINDOW ADJACENT TO THE EXISTING 130' BOGE R/W. IF THE VARIANCE IS DENIED THE SALE BECOMES NULL & VOID WHICH BECOMES A HARDSHIP TO THE BUYER.

LOT 4, 8 MORN MIST COURT (FERGUSON MEADOWS 58/79)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.

Legal Owner(s):
RYAN HOMES, INC.
(Type or Print Name)
Signature
Address
City and State
Phone No.
Name, address and phone number of representative to be contacted
SAMUEL S. SHOCKLEY, VICE PRESIDENT
DEVELOPMENT ENGINEERING CONSULTANTS, INC.
660 YORK ROAD
BALTIMORE, MD 21212 (301) 377-2600
Address
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 21st day of September, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 6th day of Sept 1989, at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each successive weeks, the first publication appearing on August 10, 1989.

THE JEFFERSONIAN
NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

S. Zeke Olson
Publisher

CERTIFICATE OF POSTING

District 11th
Posted for: [Signature]
Petitioner: Ryan Homes, Inc.
Location of property: N/S Morn Mist Ct, 150' E of Ferguson Ave.
Location of Sign: [Signature]
Remarks: [Signature]
Posted by: [Signature]
Number of Signs: 1

Date of Posting: 9/12/89
Date of return: 9/15/89

Description to Accompany Petition For Zoning Variance

Lot 4
88 Morn Mist Court
11th Election District
Baltimore County, Maryland

Beginning for the same at a point on the northerly right-of-way line of Morn Mist Court approximately 150 feet more or less from the intersection of Morn Mist Court and Ferguson Avenue and running on the outline of Lot 4 the following courses and distances: 1) North 12 degrees 4 minutes 08 seconds East 5.55 feet, 2) North 11 degrees 56 minutes 24 seconds East 138.34 feet, 3) North 26 degrees 41 minutes 30 seconds East 229.29 feet, 4) South 63 degrees 18 minutes 30 seconds East 122.03 feet, 5) South 26 degrees 40 minutes 01 seconds West 95.00 feet, 6) North 63 degrees 18 minutes 30 seconds West 110.07 feet, 7) South 26 degrees 41 minutes 30 seconds West 132.73 feet, 8) South 11 degrees 56 minutes 24 seconds West 136.28 feet, 9) South 80 degrees 30 minutes 00 seconds East 12.03 feet to the point of beginning. Being known as Lot No. 4 as recorded on a Plat entitled, "Amended Plat of Ferguson Meadows" in Liber S.M. 58 folio 79.

Containing 0.3408 Acres of Land more or less.
June 6, 1989
89-117

6603 York Road Baltimore, Maryland 21212 (301) 377-2600

BY: RYAN-BLN 7-18-89 5:18PM 30153338274 377 2604; H 2

Ryan Homes
Mr. J. Robert Haines
Zoning Commissioner
Zoning Office
Baltimore County Office Building
111 W. Chesapeake Avenue
Towson, Md. 21204

July 14, 1989

Variance File for Lot 4
8 Morn Mist Court
Item # 539

Ryan Homes is requesting a zoning variance from Baltimore County to allow a side window to remain in a house being built on Lot 4 in the Ferguson Meadows development, located off Ferguson Road in the Perry Hall area. The left side property line of Lot 4 adjoins a 100' B.G. & E. utility easement and the side window is 30' from this same side lot property line. Therefore, there is not another house located within 200' of the window on the side of the house being built.

Unfortunately, Ryan Homes overlooked the County zoning regulation that a side window be 35' from the subdivision boundary line (it is only 30' in this case). The customer who purchased the home Ryan is building wants the side window and will not accept the house without it. Since the lot borders the 100' B.G. & E. utility easement, Ryan Homes is hopeful that Baltimore County will make an exception in this case, as the window will not affect another home's privacy.

I can assure you that Ryan Homes will not make this same mistake again, and hope that an exception will be granted in this case so Ryan can satisfy the customer.

Thank you for your review and attention to this matter.

Sincerely,
RYAN HOMES

Rick Vornadore
Division Manager

7939 Honeygo Blvd • Baltimore, MD 21236 • (301) 529-0400

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

July 28, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-80-A
N/S Morn Mist Court, 150' E of c/l of Ferguson Avenue
8 Morn Mist Court
11th Election District - 5th Councilmanic
Petitioner(s): Ryan Homes, Inc.
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 6, 1989 at 2:00 p.m.

Variance: To permit a 30 ft. window to tract boundary setback in lieu of the minimum 35 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3553
J. Robert Haines
Zoning Commissioner

DATE 8-11-89

Ryan Homes, Inc.
7639 Honeygo Boulevard, Suite 100
Parkville, Maryland 21206

ATTN: RICK VORNAORE

Re: Petition for Zoning Variance
CASE NUMBER: 90-80-A
N/S Morn Mist Court, 150' E of c/L of Ferguson Avenue
8 Morn Mist Court
11th Election District - 5th Councilmanic
Petitioner(s): Ryan Homes, Inc.
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 6, 1989 at 2:00 p.m.

Gentlemen:
Please be advised that \$24.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR AN ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that the above fee is for the sign & post set(s), there is no charge for each such set.

BALTIMORE COUNTY, MARYLAND No. 074530

OFFICE OF FINANCE-REVENUE DIVISION

MISCELLANEOUS CASH RECEIPT

DATE 9/6/89 ACCOUNT R-01-815-700

AMOUNT \$ 36.12

RECEIVED Ryan Homes, Inc.

FROM: Posting & Adv. for 9/5/89 Hearing 90-80-A

FOR: \$ 8 124*****86322A 117.8

VALIDATION OR SIGNATURE OF CASHIER

DATE RECEIVED DATE RECEIVED DATE RECEIVED

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: August 16, 1989
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Ryan Homes, Inc., Item 539
Zoning Petition No. 90-80-A

The petitioner requests a variance to permit a 30 feet to window boundary setback in lieu of the required 35 feet.

In reference to the above, the Office of Planning and Zoning offers no comment.

PK/JL/sf

AUG 17 1989

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500
Paul H. Reincke
Chief

JUNE 19, 1989

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: RYAN HOMES, INC.

Location: N/S OF MORN MIST COURT

Item No.: 539 Zoning Agenda: JUNE 20, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals of fire hydrants at 750 feet intervals along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. Road shall have a minimum width of 24 feet.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Pat Keller* Noted and Approved *Paul H. Reincke*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/kek

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 406
Towson, Maryland 21204
(301) 887-3554

RECEIVED
AUG 3 1989
ZONING OFFICE

July 31, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 534, 535, 536, 537, 538, 539, and 540.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lab



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

June 30, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Shell Oil Company
Zoning Meeting of 6-20-89
E/S York Road (MD 45)
at Halesworth Road
(Item #535)

Attn: Mr. James Dyer

Dear Mr. Haines:

After reviewing the submittal for a special exception for a food mart use in combination with existing service station, we find the plan acceptable.

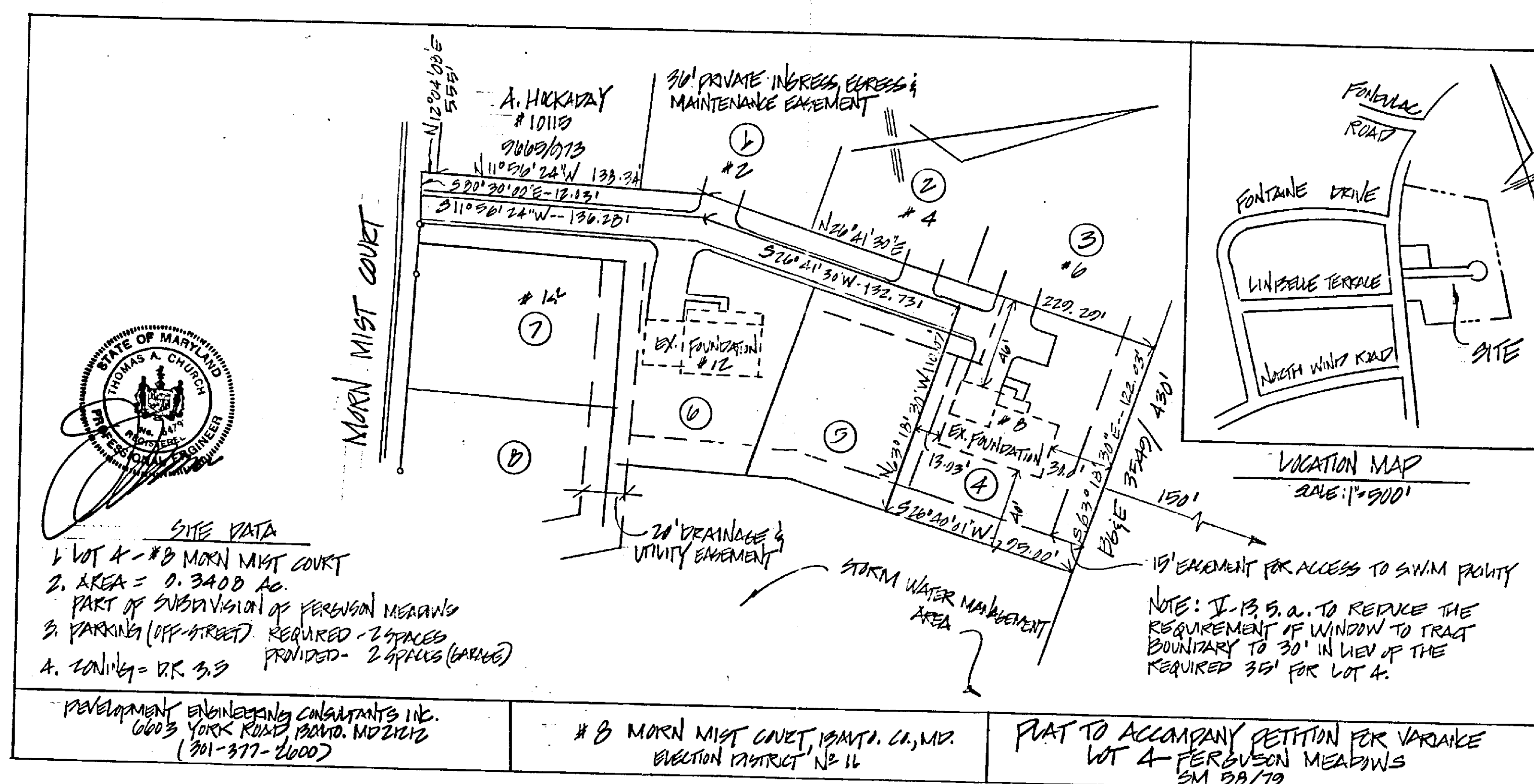
If you have any questions, please call Larry Brocato at 333-1350.

Very truly yours,

Creston J. Mills, Jr.
Creston J. Mills, Jr., Chief
Engineering Access Permits
Division

LB:maw

cc: STV/Lyon Assoc.
Mr. J. Ogle



539 Petitioner's
Exhibit #1